

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Caitlin Schwartz	Team: Team # 6	CCRB Case #: 201202321	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/22/2012 12:15 AM	Location of Incident: § 87(2)(b)	Precinct: 60	18 Mo. SOL 8/22/2013	EO SOL 8/22/2013	
Date/Time CV Reported Wed, 02/22/2012 11:36 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/22/2012 11:36 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Miguel Figueroa	03780	939822	PSA 1
2. POM Gaetjeans Doxy	13488	936518	PSA 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Zeikel	05634	945129	PSA 1
2. POM Scot Kashinsky	21885	947120	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A.SGT Miguel Figueroa	Abuse: Sgt. Miguel Figueroa stopped § 87(2)(b) and § 87(2)(b)	
B.POM Gaetjeans Doxy	Abuse: PO Gaetjeans Doxy frisked § 87(2)(b)	
C.POM Gaetjeans Doxy	Abuse: PO Gaetjeans Doxy searched § 87(2)(b)	
D.SGT Miguel Figueroa	Abuse: Sgt. Miguel Figueroa frisked § 87(2)(b)	
E.SGT Miguel Figueroa	Abuse: Sgt. Miguel Figueroa searched § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On February 22, 2012, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board by phone on behalf of her son, § 87(2)(b) (encl. 3J-L). On February 22, 2012, at approximately 12:15 a.m., § 87(2)(b) was walking back to his building at § 87(2)(b) with his friend § 87(2)(b) and a third individual who could not be identified by the investigation, when two officers, identified by the investigation to be PO Gaetjeans Doxy and Sgt. Miguel Figueroa, both of PSA 1, stopped them. The following allegations resulted:

Allegation A—Abuse of Authority: Sgt. Miguel Figueroa stopped § 87(2)(b) and § 87(2)(b):

Allegation B—Abuse of Authority: PO Gaetjeans Doxy frisked § 87(2)(b) § 87(2)(g)

Allegation C—Abuse of Authority: PO Gaetjeans Doxy searched § 87(2)(b) § 87(2)(g)

Allegation D—Abuse of Authority: Sgt. Miguel Figueroa frisked § 87(2)(b)

Allegation E—Abuse of Authority: Sgt. Miguel Figueroa searched § 87(2)(b):
§ 87(2)(b)

§ 87(2)(g), § 87(4-b)

§ 87(4-b), § 87(2)(g)

On March 30, 2012, Investigator Adriana Lizarazo referred this case to the mediation unit, and it was subsequently accepted for mediation on April 4, 2012 (encl. 13A-C). On September 24, 2012, the case was returned from the mediation unit after § 87(2)(b) stated that she was going to contact the media regarding her complaint and reassigned to Investigator Caitlin Schwartz following Investigator Lizarazo's departure from the agency (encl. 14A-AA).

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) years old on the incident date, § 87(2)(b) is a male, who identified his race as “other,” stands at five feet and eight inches tall, and weighs 130 pounds with brown hair and brown eyes. § 87(2)(b) is a doorman.

CCRB Testimony

On March 19, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 4A-E). His statement is summarized below.

On February 22, 2012, at approximately 12:15 a.m., § 87(2)(b) left his building at § 87(2)(b) with his friend, § 87(2)(b). § 87(2)(b) lives in building number § 87(2)(b). He and § 87(2)(b) headed to § 87(2)(b) of the development to drop off a movie at a friend’s apartment. § 87(2)(b) did not know his friend’s name and could only indicate that he lives on the fifth floor. At the time of the incident, § 87(2)(b) wore tan pants, a white t-shirt and blue slippers. § 87(2)(b) had the movie in his pocket. § 87(2)(b) wore a black hoodie, dark jeans and black sneakers. § 87(2)(b) denied that he was with any other individuals. § 87(2)(b) and § 87(2)(b) went into § 87(2)(b), dropped off the movie with their friend’s mother and left. § 87(2)(b) and § 87(2)(b) were in the building for two minutes and did not interact with anyone beside their friend’s mother. § 87(2)(b) neither saw any individuals in the lobby or any officers around the building.

§ 87(2)(b) and § 87(2)(b) walked back toward § 87(2)(b) and as they passed building seven, § 87(2)(b) asked § 87(2)(b) for a lighter to smoke a cigarette. § 87(2)(b) noticed an unmarked tan car with tinted windows slowly driving toward them as he reached in his left pocket and retrieved a yellow lighter. § 87(2)(b) stood to § 87(2)(b)’s left. As § 87(2)(b) passed § 87(2)(b) the lighter, it fell to the ground. § 87(2)(b) knelt down to pick up the lighter. § 87(2)(b) lit a cigarette and returned the lighter to § 87(2)(b). § 87(2)(b) and § 87(2)(b) continued walking toward § 87(2)(b) and did not change direction upon seeing the officers’ vehicle.

As § 87(2)(b) and § 87(2)(b) approached the entrance of § 87(2)(b), the vehicle sped up and then parked in front of them. Two officers, identified by the investigation to be Sgt. Figueroa and PO Doxy, exited the vehicle and approached § 87(2)(b) and § 87(2)(b). PO Doxy was the driver and Sgt. Figueroa, the passenger. § 87(2)(b) described PO Doxy as a black male in his mid to late thirties, who stood at five feet and nine inches tall, and weighed 180 to 200 pounds with a muscular build. § 87(2)(b) also noted that PO Doxy was bald and did not wear glasses. § 87(2)(b) described Sgt. Figueroa as a Hispanic male of medium complexion in his mid to late thirties, who stood at five feet and five inches tall, with a stocky build, short hair and a thick mustache.

PO Doxy asked § 87(2)(b) what he had passed to § 87(2)(b) and § 87(2)(b) replied that it was a lighter. PO Doxy then asked § 87(2)(b) and § 87(2)(b) why they were coming from § 87(2)(b), and § 87(2)(b) replied that he had dropped off a movie at a friend’s apartment. PO Doxy asked § 87(2)(b) what movie he had dropped off, and § 87(2)(b) replied that it was none of PO Doxy’s business. PO Doxy asked § 87(2)(b) and § 87(2)(b) if they had any drugs or weapons on them. § 87(2)(b) denied that they did, and told PO Doxy he could check his pockets to confirm that. PO Doxy frisked § 87(2)(b)’s shirt and pants, ran his fingers in § 87(2)(b)’s slippers and searched § 87(2)(b)’s pants pockets. § 87(2)(b) believed that PO Doxy did not have the right to search him and grabbed PO Doxy’s hands to get them out of his pockets. PO Doxy removed § 87(2)(b)’s lighter from his left pocket and his cellphone from his right pocket. § 87(2)(b) did not have anything else in his pockets. § 87(2)(b) asked for his belongings and PO Doxy said he would return them later. Sgt. Figueroa frisked and searched § 87(2)(b). § 87(2)(b) did not know which of § 87(2)(b)’s pockets Sgt. Figueroa searched.

PO Doxy asked § 87(2)(b) for his identification and § 87(2)(b) told him that he did not have it. PO Doxy then requested § 87(2)(b)’s information, which he provided verbally. § 87(2)(b)

§ 87(2)(b) sat down on the staircase while PO Doxy wrote down his information. PO Doxy then grabbed him by the arm and told him to stand by a fence next to the building entrance. § 87(2)(b) and § 87(2)(b) stood by the fence and PO Doxy again asked them what movie they dropped in § 87(2)(b). § 87(2)(b) replied that it was “Fast and Furious,” and PO Doxy asked who their friend in § 87(2)(b) was and what he and his mother looked like. § 87(2)(b) refused to answer and stated that PO Doxy did not need to know that information. § 87(2)(b) also told PO Doxy that he had a bad memory because he smoked a lot, and PO Doxy asked him if he was “baked” or on drugs. § 87(2)(b) told PO Doxy that he was sober and not on drugs. § 87(2)(b) was quiet during the incident. § 87(2)(b) did not yell or use profanity during the incident.

Two or three white male officers in uniform arrived in a marked police car and tried to speak to § 87(2)(b), but he refused to respond. § 87(2)(b)’s mother, § 87(2)(b) came out of the building and asked the officers what they were doing to § 87(2)(b). PO Doxy and § 87(2)(b) argued about the incident and § 87(2)(b) told § 87(2)(b) and § 87(2)(b) to go back inside the building. One of the newly arrived officers reiterated to § 87(2)(b) that he should go inside the building and listen to his mother. PO Doxy returned § 87(2)(b)’s belongings to him. § 87(2)(b) stated that no other civilians were present for the incident, which lasted 15 to 20 minutes.

Complainant/Witness: § 87(2)(b)

- § 87(2)(b) years old on the incident date, § 87(2)(b) is a female, who identified her race as “other,” stands at five feet and two inches tall, and weighs 142 pounds with brown hair and eyes.

CCRB Testimony

On March 19, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 4F-I). Her statement is summarized below.

On February 22, 2012, at approximately 12:15 a.m., § 87(2)(b) was in her apartment at § 87(2)(b) when her son, § 87(2)(b) told her that he was going to go outside to smoke a cigarette. After approximately ten minutes, § 87(2)(b) came out of her building to check where her son was. § 87(2)(b) saw her son and his two friends against a fence while PO Doxy and Sgt. Figueroa spoke to them. § 87(2)(b) identified one of her son’s friends as § 87(2)(b) and stated that the third individual is a black or Hispanic female who dresses like a man. § 87(2)(b) stated that the third individual did not want to be identified. § 87(2)(b) refused to provide a name or any contact information for this individual.

§ 87(2)(b) approached the officers and asked them why they had stopped her son. PO Doxy told § 87(2)(b) that he had observed her son and his two friends come out of § 87(2)(b), which was being watched for drug activity. PO Doxy also told § 87(2)(b) that § 87(2)(b) had admitted to being “stoned,” which § 87(2)(b) replied was impossible because she does random drug testing on her son to make sure he is clean. While § 87(2)(b) was present, the officers did not frisk or search § 87(2)(b) or his friends. PO Doxy and Sgt. Figueroa were in uniform and had a dark blue or black unmarked car parked outside the building. § 87(2)(b) described PO Doxy as a black male in his mid-thirties to early forties, who stood at five feet and six inches tall with a medium build. He was bald and wore glasses. § 87(2)(b) only spoke to PO Doxy during this incident and could only describe Sergeant Figueroa as male.

Two additional uniformed white male officers in a marked police car arrived on scene. § 87(2)(b) a visitor from § 87(2)(b), left the building at that point, but stayed to watch. § 87(2)(b) did not know § 87(2)(b)’s last name or contact information. One of the newly arrived officers yelled at § 87(2)(b) to go back inside the building, and § 87(2)(b) told him not to

tell her son what to do. § 87(2)(b) denied that § 87(2)(b) yelled or used profanity during the incident. She did not witness PO Doxy in possession of any of § 87(2)(b)'s belongings or return any items to him.

Victim: § 87(2)(b)

- § 87(2)(b) years old on the incident date, § 87(2)(b) is a Hispanic male.

CCRB Telephone Statement

On March 20, 2012, § 87(2)(b) provided a telephone statement (encl. 4J), § 87(2)(g)

and is summarized below.

On February 22, 2012, at approximately 12:15 a.m., § 87(2)(b) was walking with § 87(2)(b) to § 87(2)(b) to see a friend so that § 87(2)(b) could drop something off. § 87(2)(b) initially said that it was just him and § 87(2)(b) but then stated that his friend, § 87(2)(b), was also present. § 87(2)(b) did not know § 87(2)(b)'s last name or contact information, but stated that § 87(2)(b) was § 87(2)(b) years old on the incident date. The friend that they sought in § 87(2)(b) was not home.

As § 87(2)(b), § 87(2)(b) and § 87(2)(b) returned to § 87(2)(b), PO Doxy and Sgt. Figueroa, in a beige unmarked car, approached them and asked if they lived in the building. Sgt. Figueroa asked why they were coming from § 87(2)(b) and if they had anything in their pockets. Sgt. Figueroa frisked and searched § 87(2)(b) and § 87(2)(b) while PO Doxy frisked § 87(2)(b). § 87(2)(b) was not sure whether § 87(2)(b) was searched. § 87(2)(b) only had his cell phone and keys in his pockets. Sgt. Figueroa searched the pockets of § 87(2)(b)'s jacket. § 87(2)(b) came out and argued with the officers. Two white male uniformed officers arrived to the scene in a marked vehicle.

§ 87(2)(b) described PO Doxy as a bald black male in his thirties who stood at five feet and seven or eight inches tall with a slim build. He described Sgt. Figueroa as Hispanic male in his mid to late thirties, who stood at five feet and six inches tall with a chubby build.

On October 22, 2012, in a phone conversation with Investigator Schwartz, § 87(2)(b) withdrew his complaint. He stated that § 87(2)(b) had wanted him to participate in the investigation of her complaint, but he did not want to remain involved. He confirmed that he withdrew his complaint by his own volition without the influence of anyone from the CCRB or NYPD.

Attempts to Contact Civilians

§ 87(2)(b) testified that he was not accompanied by anyone besides § 87(2)(b) at the time of the incident. § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) were with a black or Hispanic female, for whom she refused to provide a name or any contact information. § 87(2)(b) also stated that a neighbor's visitor named § 87(2)(b) had come out of their apartment building to watch the incident, but he did not arrive until after the allegations occurred, so he would not qualify as a witness. § 87(2)(b) stated that he and § 87(2)(b) were accompanied by their friend § 87(2)(b) at the time of the incident, but could not provide contact information for § 87(2)(b) during his CCRB telephone statement. On March 30, 2012, Investigator Lizarazo contacted § 87(2)(b) by phone and left a message with § 87(2)(b)'s mother requesting a call back to determine if § 87(2)(b) had obtained § 87(2)(b)'s contact information. On October 22, 2012, Investigator Schwartz contacted § 87(2)(b) at which point he stated that he could not provide contact information for § 87(2)(b), who had since moved out of New York.

NYPD Statements:

Subject Officer: PO GAETJEANS DOXY

- § 87(2)(b) years old on the incident date, PO Doxy is a black male, who stands at five feet and eight inches, and weighs 190 pounds with black hair and brown eyes.
- On February 21, 2012, PO Doxy's tour began at 7:30 p.m., and concluded at 4:05 a.m. on February 22, 2012. He was assigned to Conditions with Sgt. Miguel Figueroa. He was in uniform and assigned to an unmarked vehicle. He believed that the vehicle was a black Crown Victoria. PO Doxy operated the vehicle.

Memo Book

PO Doxy brought the wrong memo book to his CCRB interview. He was asked to fax the appropriate memo book section to the investigator. Three follow-up calls were made to obtain the memo book from PO Doxy's command, but to date, the investigation has not received the relevant memo book section.

CCRB Testimony

On February 6, 2013, PO Doxy was interviewed at the CCRB (encl. 6A-D). His statement is summarized below.

On February 22, 2012, at approximately 12:15 a.m., PO Doxy and Sgt. Figueroa were observing § 87(2)(b). § 87(2)(b). The officers were watching that building in particular for people buying marijuana and crack cocaine. PO Doxy explained that he had been informed by many tenants that kids had been buying and selling drugs within that building. PO Doxy observed three males exit the building, walking at a quick pace. He had not seen them enter the building; he only saw them exit.

PO Doxy explained that they were walking toward § 87(2)(b). PO Doxy did not know at the time that § 87(2)(b) lived in that building, but found out later. During his CCRB interview, PO Doxy indicated on a map the officers' location and that of the individuals (encl. 6D). The officers' vehicle was situated in the § 87(2)(b). Light emanated from § 87(2)(b)'s lobby.

PO Doxy suspected that the individuals might have bought drugs in the building because of the hurry they seemed to be in when they exited the building. He also based his suspicion on his familiarity with that building as a known location for drug sales. He did not recall if he observed anything in any of the individuals' hands. He did not believe that they were carrying any bags or other objects. He decided to stop them to determine what they had been doing in the building. PO Doxy and Sgt. Figueroa did not discuss stopping the individuals before doing so. PO Doxy drove the RMP a short distance in order to get closer to the individuals. The officers exited the vehicle and approached the individuals. At the time of his CCRB interview, PO Doxy stated that he could not remember what additional observations he made of the individuals when he approached them. PO Doxy stated that he mostly spoke to § 87(2)(b). PO Doxy asked § 87(2)(b) if he lived in the building, and he denied that he did. PO Doxy then asked if he knew anyone who lived in the building, and § 87(2)(b) confirmed that he did. PO Doxy asked in which apartment that person lived, and § 87(2)(b) stated that he could not tell PO Doxy that information. PO Doxy asked what § 87(2)(b)'s business was in the building, and § 87(2)(b) refused to respond. § 87(2)(b) smiled at PO Doxy, and said that he was "stoned."

§ 87(2)(b) wore jeans and a jacket at the time of the incident. PO Doxy observed something protruding from § 87(2)(b)'s waistband at his hip, possibly a bulge. When asked the size of the bulge, PO Doxy said, "pretty big." He explained that he could not specify further regarding the bulge's size. He said that the bulge was rectangular. When asked what type of object he thought the bulge could be, PO Doxy stated that it could be anything, and he did not know what object came to mind when he saw the bulge. PO Doxy also noticed § 87(2)(b) put

his hand in his pocket. When asked if § 87(2)(b) reached into his pants or jacket pocket, PO Doxy said that he thought it was the front pants pocket. When asked if the pocket into which § 87(2)(b) reached was on the same side as where PO Doxy observed a bulge, PO Doxy said, “he was reaching into both pockets and he also had a bulge.” PO Doxy observed § 87(2)(b) stick his hand inside his pockets “at least a couple times.” PO Doxy decided to frisk § 87(2)(b) because of the observed bulge.

PO Doxy frisked the front of § 87(2)(b)'s waistband, and his two front pockets. PO Doxy stated that he felt a hard object when he frisked the bulge. PO Doxy could not determine what the object was from what he felt. Since it was hard, he believed it could have been metallic. PO Doxy believed that once he felt the object, he asked § 87(2)(b) what it was, and § 87(2)(b) specified that it was a cell phone, and PO Doxy was satisfied with his answer. PO Doxy never saw the cell phone. PO Doxy did not frisk above § 87(2)(b)'s waist or down § 87(2)(b)'s legs. He neither checked in § 87(2)(b)'s shoes nor removed anything from § 87(2)(b)'s pockets.

PO Doxy asked the other two individuals for their names and business in the building. Sgt. Figueroa primarily stood behind PO Doxy and observed what was going on. PO Doxy did not recall if Sgt. Figueroa asked any questions. He did not recall whether the other individuals were frisked or if Sgt. Figueroa frisked any individual. He denied that the other individuals were searched. PO Doxy stated that he did not recall much about the other individuals present besides § 87(2)(b).

As PO Doxy and Sgt. Figueroa spoke to the individuals, § 87(2)(b)'s mother, identified by the investigation to be § 87(2)(b), came out of the building and yelled at the officers. PO Doxy believed that § 87(2)(b) came out after he frisked § 87(2)(b). PO Doxy explained that § 87(2)(b) complained that police officers repeatedly stopped and arrested her son. § 87(2)(b) yelled at Sgt. Figueroa, and he tried to calm her down. Sgt. Figueroa stood with § 87(2)(b) near the steps at the entrance of § 87(2)(b), and PO Doxy stood about ten feet away with § 87(2)(b) and the other two individuals.

PO Doxy said that § 87(2)(b)'s yelling prompted other people to leave the building, including one male who became angry and stood in the way of one of the officers when he was told to get back in the building. PO Doxy told § 87(2)(b) to calm down, and that the officers would address her when they were done speaking to her son and his friends. PO Doxy added later that § 87(2)(b) repeatedly went in and out of the building, but he did not know why. He did not think that § 87(2)(b) made any physical contact with any officer. PO Doxy informed § 87(2)(b) that her son had informed the officers that he was “stoned.” PO Doxy explained to § 87(2)(b) that if officers were always stopping her son, that could not be a good thing. He added that some of the officers could be wrong, but it was not likely that all of them were wrong.

PO Doxy radioed for back up because § 87(2)(b) was yelling, § 87(2)(b) his friends, and the crowd that had gathered became angry. PO Doxy believed that PO Scot Kashinsky and PO Jason Zeikel of PSA1 responded to the scene after he radioed for back up.

PO Doxy denied asking the individuals any questions regarding drugs or weapons. PO Doxy was asked why he did not question them with respect to drugs after stopping them due to suspicion that they had just engaged in a drug sale. PO Doxy said that he was prevented from initiating this line of questioning because of § 87(2)(b)'s interruption of the interaction. He also said that typically, he would not ask individuals about drugs in these types of situations because they would lie. He then affirmed that his intention was to determine what the individuals' business in the building had been.

PO Doxy requested § 87(2)(b)'s identification, and believed that § 87(2)(b) provided his identification, but he was not certain.

PO Doxy stated that he believed that he prepared three stop and frisk reports, one for each individual stopped. No arrests were made and no summonses were issued.

Subject Officer: SGT. MIGUEL FIGUEROA

- § 87(2)(b) years old on the incident date, Sgt. Figueroa is a Hispanic male, who stands at five feet and six inches, and weighs 195 pounds with black hair and brown eyes.
- Sgt. Figueroa's tour began at 7:55 p.m. on February 21, 2012, and concluded at 2:52 a.m. on February 22, 2012. His assignment was conditions supervisor and he was in uniform. He worked with PO Gaetjeans Doxy in an unmarked vehicle, which he believed was a light grey Ford.

Memo Book

Sgt. Figueroa made notes about the incident only on the fly pages of his memo book. He indicated that at 12:20 a.m., the officers stopped § 87(2)(b) and § 87(2)(b) by § 87(2)(b), heading into § 87(2)(b). § 87(2)(b) and § 87(2)(b) were stopped due to suspicion of criminal trespassing and possession of marijuana. Sgt. Figueroa indicated that someone admitted to being stoned (encl. 7A-C).

CCRB Testimony

On March 19, 2013, Sgt. Figueroa was interviewed at the CCRB (encl. 7C-E). His statement is summarized below.

On February 22, 2012, at approximately 12:15 a.m., Sgt. Figueroa and PO Doxy were observing building § 87(2)(b) as part of their conditions assignment. Sgt. Figueroa explained that § 87(2)(b) — particularly the § 87(2)(b) floor—is prone to narcotic sales. There were a few apartments in which the officers were aware there had been drug sales. Sgt. Figueroa pointed out that the building is public housing with detailed signs prohibiting trespassing, loitering and going on to the roof. He explained that as housing police, the officers were the custodians of the building and enforced its laws. They could arrest anyone who they determined to be trespassing there.

The officers were parked alongside § 87(2)(b), and inside their vehicle when they observed § 87(2)(b) and § 87(2)(b) walk toward § 87(2)(b). (The investigation determined that § 87(2)(b) is located about 75 feet west of § 87(2)(b)). After the officers had observed them for about two minutes, § 87(2)(b) and § 87(2)(b) entered the building. When asked how § 87(2)(b) and § 87(2)(b) gained access to the building, Sgt. Figueroa responded that the doors to the building are frequently open. He said that many times, people keep the doors propped open because they do not have keys to access the building. Sgt. Figueroa did not recall any other individual present with § 87(2)(b) and § 87(2)(b). After hanging out in the lobby for a minute or two, § 87(2)(b) and § 87(2)(b) disappeared from view. Sgt. Figueroa believed that they went upstairs. A minute or two later, they returned downstairs and exited the building. Sgt. Figueroa denied witnessing § 87(2)(b) and § 87(2)(b) smoke or pass anything to each other. Sgt. Figueroa explained that they appeared to be talking and hanging out, but he did not know their business in the building. When § 87(2)(b) and § 87(2)(b) were outside, Sgt. Figueroa and PO Doxy approached and questioned them. Sgt. Figueroa stated that the officers wanted to find out their business in the building, and to clarify whether they lived there or whom they had visited. If the officers could not verify § 87(2)(b) and § 87(2)(b)'s business in the building, the officers could arrest them for criminal trespassing.

Sgt. Figueroa and PO Doxy asked § 87(2)(b) and § 87(2)(b) if they lived in the building, and they both denied that they did. The officers then asked them their business in the building. Sgt. Figueroa stated that the answer provided by § 87(2)(b) and § 87(2)(b) did not make sense, so the officers continued to question them. When asked to clarify what § 87(2)(b) and § 87(2)(b)'s response was and why it did not make sense, Sgt. Figueroa stated that he could not recall the response. The officers asked if § 87(2)(b) and § 87(2)(b) knew anyone in the building, and they said they did not. The officers then asked which apartment § 87(2)(b) and § 87(2)(b) had visited, and they said they did not know. Sgt. Figueroa explained that the officers wanted to know more about § 87(2)(b) and § 87(2)(b)'s business in the building to determine whether they were trespassing. Sgt. Figueroa reiterated that trespassing is one of the conditions to which the officers were assigned. He confirmed that he suspected § 87(2)(b) and § 87(2)(b) of criminal trespassing because they could not adequately explain their business in the building.

Sgt. Figueroa said that § 87(2)(b) and § 87(2)(b) seemed angry, upset, nervous and fidgety. He stated that § 87(2)(b) appeared to be on drugs because he was "very mellow." He added that after the officers questioned them with respect to their business in the building, § 87(2)(b) volunteered that he was "stoned."

Sgt. Figueroa stated that he and PO Doxy obtained and noted the individuals' pedigree information, but the stop did not go farther than that because § 87(2)(b) came outside and interrupted. The officers had obtained § 87(2)(b) and § 87(2)(b)'s information by requesting and being provided with their identification. Sgt. Figueroa noted some information regarding the stop on the fly pages of his memo book, but he believed that PO Doxy probably included more information on the Stop, Question and Frisk forms filled out in regards. § 87(2)(b) was cursing and screaming. He believed she might have been moving her hands. She approached the officers and asked why they were harassing people. Sgt. Figueroa spoke to her, but found it difficult because she was angry. Sgt. Figueroa said that he wanted to explain to her what was going on, but he did not feel that he successfully conveyed his message because she continued to yell and curse.

Sgt. Figueroa indicated that at the point that § 87(2)(b) came outside, § 87(2)(b) and § 87(2)(b) were still free to leave. Sgt. Figueroa denied frisking or searching § 87(2)(b) and § 87(2)(b). To Sgt. Figueroa's recollection, PO Doxy did not frisk or search § 87(2)(b) or § 87(2)(b). The officers noted the individuals' information and per Sgt. Figueroa's instruction, PO Doxy filled out two Stop, Question and Frisk forms regarding the stops of § 87(2)(b) and § 87(2)(b). Sgt. Figueroa stated that the officers indicated on the Stop, Question and Frisk form that they suspected § 87(2)(b) and § 87(2)(b) of criminal trespassing.

Sgt. Figueroa denied that he called for backup, but recalled that other officers arrived on the scene although he could not identify them. He thought that other officers responded because the situation got out of hand after § 87(2)(b) made a scene. He believed that two other males might have come out of the building. He explained that approximately two minutes after § 87(2)(b) interrupted, § 87(2)(b) and § 87(2)(b) dispersed and went their respective ways.

Officers Not Interviewed

§ 87(2)(g), § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b).

Police Documents

Computerized and Handwritten Stop, Question and Frisk Logs

Neither the computerized nor handwritten Stop, Question and Frisk log from the 60th Precinct indicates any stop and frisk report prepared by PO Doxy or for any of the named victims on February 21, 2012 (encl. 9A-J). On March 19, 2013, the handwritten Stop, Question and Frisk log was also requested from PSA 1. However, the request was returned and indicated that the handwritten log was unavailable due to Hurricane Sandy (encl. 12O-P).

Status of Civil Proceedings

- Neither [§ 87(2)(b)] nor [§ 87(2)(b)] has filed a Notice of Claim with the City of New York as of March 25, 2013 with regard to the incident (encl. 11I).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)], [§ 87(2)(b)] or [§ 87(2)(b)] (encl. 3C-E).

Subject Officers CCRB History

- PO Doxy has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 3A).
- Sgt. Figueroa has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. 3B).

Conclusion

Identification of Subject Officers

PO Doxy and Sgt. Figueroa acknowledged their participation in the incident. [§ 87(2)(b)]
[§ 87(2)(b), § 87(2)(g)]
[§ 87(2)(b)]
[§ 87(2)(b)]
[§ 87(2)(b)]
[§ 87(2)(b)]
[§ 87(2)(b)]

Investigative Findings and Recommendations

Allegations Not Pleaded

Although, in his CCRB telephone statement, [§ 87(2)(b)] alleged that an unidentified individual was frisked and searched, no such allegations were made in a verified statement. [§ 87(2)(b)]
[§ 87(2)(b), § 87(2)(g)]

Allegation A—Abuse of Authority: Sgt. Miguel Figueroa stopped [§ 87(2)(b)] and [§ 87(2)(b)]

Allegation B—Abuse of Authority: PO Gaetjeans Doxy frisked [§ 87(2)(b)]
It is undisputed that PO Doxy and Sgt. Figueroa stopped [§ 87(2)(b)] and [§ 87(2)(b)] in the [§ 87(2)(b)]. PO Doxy and Sgt. Figueroa both affirmed that this location was known as prone to drug sales. PO Doxy testified that he did not see [§ 87(2)(b)] and [§ 87(2)(b)] enter the building, but saw them exit, walking at a quick pace. PO Doxy suspected

that § 87(2)(b) and § 87(2)(b) may have purchased drugs while inside of the building because of the hurry that they seemed to be in when they left the building.

Sgt. Figueroa stated that he observed § 87(2)(b) and § 87(2)(b) enter the building, then idle in the lobby for a moment before going upstairs. A minute or two later, § 87(2)(b) and § 87(2)(b) returned and exited the building. They appeared to be talking and hanging out upon exiting the building.

The officers approached § 87(2)(b) and § 87(2)(b) and questioned them regarding their presence inside the building. According to PO Doxy, § 87(2)(b) stated that he did not live in the building but knew someone who did. PO Doxy asked in which apartment that person lived, and § 87(2)(b) stated that he could not tell PO Doxy that information. PO Doxy asked what § 87(2)(b)'s business was in the building, and § 87(2)(b) refused to respond and told PO Doxy that he was "stoned." PO Doxy denied asking any questions regarding weapons or drugs. PO Doxy frisked § 87(2)(b) because he observed a "pretty big" rectangular bulge in § 87(2)(b)'s waistband. PO Doxy could not specify what object he believed made the bulge and added that § 87(2)(b) reached into his pockets. PO Doxy frisked § 87(2)(b)'s waistband and two front pockets and felt a hard object which § 87(2)(b) stated was a cell phone.

Sgt. Figueroa stated that § 87(2)(b) and § 87(2)(b) stated that they did not live in the building and did not know anyone who lived inside of the building § 87(2)(g), § 87(2)(b). According to Sgt. Figueroa, the officers then asked § 87(2)(b) and § 87(2)(b) what they were doing inside the building but their answers did not make sense. Sgt. Figueroa could not recall the specific responses but noted that § 87(2)(b) volunteered that he was "stoned" during the incident. To Sgt. Figueroa's recollection, PO Doxy did not frisk § 87(2)(b).

§ 87(2)(b) confirmed that he and § 87(2)(b) entered § 87(2)(b) and then exited shortly afterwards. As he and § 87(2)(b) were walking back to his building, PO Doxy and Sgt. Figueroa asked them why they were coming from § 87(2)(b). § 87(2)(b) replied that he dropped off a movie at a friend's house. § 87(2)(b) told PO Doxy that the name of the movie was none of his business. PO Doxy asked § 87(2)(b) and § 87(2)(b) if they had any drugs or weapons on them. § 87(2)(b) denied that they did, and told PO Doxy he could check his pockets to confirm that. PO Doxy then frisked him and requested his information. § 87(2)(b) later refused to answer PO Doxy's question of what his friend and his mother looked like and told PO Doxy that he had a bad memory because he smoked a lot. PO Doxy asked him if he was on drugs and § 87(2)(b) replied that he was sober.

An officer must have an objective credible reason to approach § 87(2)(b) and request information. He may ask accusatory questions of such person if a founded suspicion of criminality exists. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 2A-K); People v. Hollman, 79 N.Y.2d 181 (1992) (encl. 1C-J). § 87(2)(b) may be stopped when reasonable suspicion exists that such person has committed, is committing or about to commit a crime. Id. A refusal to provide information does not alone provide reasonable suspicion to believe that trespassing has occurred. People v. Lee, 1999 N.Y. Lexis 706 (Crim. Ct. Bronx Cty. 1999) (encl. 1A-B). Moreover, a frisk for weapons is not justified absent proof of a describable object or describable conduct which provides a reasonable basis to believe that a suspect is armed. People v. Cooper, 17 Misc.3d 44 (App. Div. 1st Dep't. 2007) (encl. 2L-P). The mere observation of an undefined bulge is an insufficient basis for a frisk. Id.

§ 87(2)(g), § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation C—Abuse of Authority: PO Gaetjeans Doxy searched § 87(2)(b)

§ 87(2)(b) alleged that PO Doxy removed his lighter from his left pants pocket and cell phone from his right pants pocket and returned them at the end of their interaction. § 87(2)(b) denied witnessing PO Doxy in possession of any of § 87(2)(b)'s belongings or returning any items to him. § 87(2)(b) was not sure whether § 87(2)(b) was searched. PO Doxy denied searching § 87(2)(b) and Sgt. Figueroa did not recall PO Doxy searching § 87(2)(b). § 87(2)(b), § 87(2)(g)

Allegation D—Abuse of Authority: Sgt. Miguel Figueroa frisked § 87(2)(b)

Allegation E—Abuse of Authority: Sgt. Miguel Figueroa searched § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that Sgt. Figueroa frisked and searched § 87(2)(b). On October 22, 2012, § 87(2)(b) withdrew his complaint. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

[Redacted text block]

§ 87(2)(g), § 87(4-b)

[Redacted text block]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____

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